

SB 6364 - H COMM AMD

By Committee on Natural Resources, Ecology & Parks

NOT CONSIDERED 03/03/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Carbon monoxide is a potentially deadly gas that can lead to
5 brain injury and death.

6 (2) Marine engines are not subject to the same federal and state-
7 mandated emission controls as automobiles and, therefore, can emit
8 dangerously high concentrations of carbon monoxide into the atmosphere,
9 increasing the chance of exposure to potentially lethal amounts of
10 carbon monoxide.

11 (3) Federal agencies have found that carbon monoxide can gather in
12 deadly concentrations behind ski boats and cabin cruisers.

13 (4) Dangerous levels of carbon monoxide can accumulate around
14 vessel swim decks and areas at the stern of the boat where occupants
15 frequently sit or swim because the exhaust ports for both propulsion
16 engines and generators are located nearby.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 79A.60 RCW
18 to read as follows:

19 (1) It is unlawful for a person to operate a motor driven boat or
20 vessel, other than a personal watercraft, or have the engine of a
21 vessel run idle, when an individual is engaged in stern deck
22 recreation.

23 (2) A violation of this subsection is an infraction punishable by
24 a fine of up to one hundred dollars.

25 **Sec. 3.** RCW 79A.60.630 and 2005 c 392 s 3 are each amended to read
26 as follows:

27 (1) The commission shall establish and implement by rule a program
28 to provide required boating safety education. The boating safety

1 education program shall include training on preventing the spread of
2 aquatic invasive species. The program shall be phased in so that all
3 boaters not exempted under RCW 79A.60.640(3) are required to obtain a
4 boater education card by January 1, 2016. To obtain a boater education
5 card, a boater shall provide a certificate of accomplishment issued by
6 a boating educator for taking and passing an accredited boating safety
7 education course, or pass an equivalency exam, or provide proof of
8 completion of a course that meets the standard adopted by the
9 commission.

10 (2) As part of the boating safety education program, the commission
11 shall:

12 (a) Establish a program to be phased over eleven years starting
13 July 1, 2005, with full implementation by January 1, 2016. The period
14 July 1, 2005, through December 31, 2007, will be program development,
15 boater notification of the new requirements for mandatory education,
16 and processing cards to be issued to individuals having taken an
17 accredited course prior to January 1, 2008. The schedule for phase-in
18 of the mandatory education requirement by age group is as follows:

19 January 1, 2008 - All boat operators twenty years old and younger;
20 January 1, 2009 - All boat operators twenty-five years old and younger;
21 January 1, 2010 - All boat operators thirty years old and younger;
22 January 1, 2011 - All boat operators thirty-five years old and younger;
23 January 1, 2012 - All boat operators forty years old and younger;
24 January 1, 2013 - All boat operators fifty years old and younger;
25 January 1, 2014 - All boat operators sixty years old and younger;
26 January 1, 2015 - All boat operators seventy years old and younger;
27 January 1, 2016 - All boat operators;

28 (b) Establish a minimum standard of boating safety education
29 accomplishment. The standard must be consistent with the applicable
30 standard established by the national association of state boating law
31 administrators;

32 (c) Adopt minimum standards for boating safety education course of
33 instruction and examination that ensures compliance with the national
34 association of state boating law administrators minimum standards;

35 (d) Approve and provide accreditation to boating safety education
36 courses operated by volunteers, or commercial or nonprofit
37 organizations, including, but not limited to, courses given by the

1 United States coast guard auxiliary and the United States power
2 squadrons;

3 (e) Include information about the dangers of carbon monoxide
4 poisoning at the stern of a vessel and how to prevent such poisoning;

5 (f) Develop an equivalency examination that may be taken as an
6 alternative to the boating safety education course;

7 (~~(f)~~) (g) Establish a fee of ten dollars for the boater education
8 card to fund all commission activities related to the boating safety
9 education program created by chapter 392, Laws of 2005, including the
10 initial costs of developing the program. Any surplus funds resulting
11 from the fees received shall be distributed by the commission as grants
12 to local marine law enforcement programs approved by the commission as
13 provided in RCW 88.02.040;

14 (~~(g)~~) (h) Establish a fee for the replacement of the boater
15 education card that covers the cost of replacement;

16 (~~(h)~~) (i) Consider and evaluate public agency and commercial
17 opportunities to assist in program administration with the intent to
18 keep administrative costs to a minimum;

19 (~~(i)~~) (j) Approve and provide accreditation to boating safety
20 education courses offered online; and

21 (~~(j)~~) (k) Provide a report to the legislature by January 1, 2008,
22 on its progress of implementation of the mandatory education program.

23 NEW SECTION. Sec. 4. A new section is added to chapter 88.02 RCW
24 to read as follows:

25 (1) Any new or used motor driven boat or vessel, as that term is
26 defined in RCW 79A.60.010, other than a personal watercraft, sold
27 within this state must display a carbon monoxide warning sticker
28 developed by the department on the interior of the vessel.

29 (2) For vessels sold by a dealer, the dealer shall ensure that the
30 warning sticker has been affixed prior to completing a transaction.

31 (3) For a vessel sold by an individual, the department shall
32 include the sticker in the registration materials provided to the new
33 owner, and the department shall notify the new owner that the sticker
34 must be affixed as described in subsection (1) of this section.

35 (4) A warning sticker already developed by a vessel manufacturer
36 may satisfy the requirements of this section if it has been approved by

1 the department. The department shall approve a carbon monoxide warning
2 sticker that has been approved by the United States coast guard for
3 similar uses in other states.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 88.02 RCW
5 to read as follows:

6 The department shall include an informational brochure about the
7 dangers of carbon monoxide poisoning and vessels and the warning
8 stickers required by section 4 of this act as part of the registration
9 materials mailed by the department for two consecutive years for
10 registrations that are due or become due after the effective date of
11 this section, and thereafter upon recommendation by the director of the
12 department. The materials shall instruct the vessel owner to affix the
13 stickers as required by section 4 of this act.

14 **Sec. 6.** RCW 79A.60.010 and 2005 c 392 s 2 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Accredited course" means a mandatory course of instruction on
19 boating safety education that has been approved by the commission.

20 (2) "Boat wastes" includes, but is not limited to, sewage, garbage,
21 marine debris, plastics, contaminated bilge water, cleaning solvents,
22 paint scrapings, or discarded petroleum products associated with the
23 use of vessels.

24 (3) "Boater" means any person on a vessel on waters of the state of
25 Washington.

26 (4) "Boater education card" means a card issued to a person who has
27 successfully completed a boating safety education test and has paid the
28 registration fee for a serial number record to be maintained in the
29 commission's data base.

30 (5) "Boating educator" means a person providing an accredited
31 course.

32 (6) "Carrying passengers for hire" means carrying passengers in a
33 vessel on waters of the state for valuable consideration, whether given
34 directly or indirectly or received by the owner, agent, operator, or
35 other person having an interest in the vessel. This shall not include
36 trips where expenses for food, transportation, or incidentals are

1 shared by participants on an even basis. Anyone receiving compensation
2 for skills or money for amortization of equipment and carrying
3 passengers shall be considered to be carrying passengers for hire on
4 waters of the state.

5 (7) "Certificate of accomplishment" means a form of certificate
6 approved by the commission and issued by a boating educator to a person
7 who has successfully completed an accredited course.

8 (8) "Commission" means the state parks and recreation commission.

9 (9) "Darkness" means that period between sunset and sunrise.

10 (10) "Environmentally sensitive area" means a restricted body of
11 water where discharge of untreated sewage from boats is especially
12 detrimental because of limited flushing, shallow water, commercial or
13 recreational shellfish, swimming areas, diversity of species, the
14 absence of other pollution sources, or other characteristics.

15 (11) "Guide" means any individual, including but not limited to
16 subcontractors and independent contractors, engaged for compensation or
17 other consideration by a whitewater river outfitter for the purpose of
18 operating vessels. A person licensed under RCW 77.65.480 or 77.65.440
19 and acting as a fishing guide is not considered a guide for the
20 purposes of this chapter.

21 (12) "Marina" means a facility providing boat moorage space, fuel,
22 or commercial services. Commercial services include but are not
23 limited to overnight or live-aboard boating accommodations.

24 (13) "Motor driven boats and vessels" means all boats and vessels
25 which are self propelled.

26 (14) "Motor vessel safety operating and equipment checklist" means
27 a printed list of the safety requirements for a vessel with a motor
28 installed or attached to the vessel being rented, chartered, or leased
29 and meeting minimum requirements adopted by the commission in
30 accordance with RCW 79A.60.630.

31 (15) "Muffler" or "muffler system" means a sound suppression device
32 or system, including an underwater exhaust system, designed and
33 installed to abate the sound of exhaust gases emitted from an internal
34 combustion engine and that prevents excessive or unusual noise.

35 (16) "Operate" means to steer, direct, or otherwise have physical
36 control of a vessel that is underway.

37 (17) "Operator" means an individual who steers, directs, or

1 otherwise has physical control of a vessel that is underway or
2 exercises actual authority to control the person at the helm.

3 (18) "Observer" means the individual riding in a vessel who is
4 responsible for observing a water skier at all times.

5 (19) "Owner" means a person who has a lawful right to possession of
6 a vessel by purchase, exchange, gift, lease, inheritance, or legal
7 action whether or not the vessel is subject to a security interest.

8 (20) "Person" means any individual, sole proprietorship,
9 partnership, corporation, nonprofit corporation or organization,
10 limited liability company, firm, association, or other legal entity
11 located within or outside this state.

12 (21) "Personal flotation device" means a buoyancy device, life
13 preserver, buoyant vest, ring buoy, or buoy cushion that is designed to
14 float a person in the water and that is approved by the commission.

15 (22) "Personal watercraft" means a vessel of less than sixteen feet
16 that uses a motor powering a water jet pump, as its primary source of
17 motive power and that is designed to be operated by a person sitting,
18 standing, or kneeling on, or being towed behind the vessel, rather than
19 in the conventional manner of sitting or standing inside the vessel.

20 (23) "Polluted area" means a body of water used by boaters that is
21 contaminated by boat wastes at unacceptable levels, based on applicable
22 water quality and shellfish standards.

23 (24) "Public entities" means all elected or appointed bodies,
24 including tribal governments, responsible for collecting and spending
25 public funds.

26 (25) "Reckless" or "recklessly" means acting carelessly and
27 heedlessly in a willful and wanton disregard of the rights, safety, or
28 property of another.

29 (26) "Rental motor vessel" means a motor vessel that is legally
30 owned by a person that is registered as a rental and leasing agency for
31 recreational motor vessels, and for which there is a written and signed
32 rental, charter, or lease agreement between the owner, or owner's
33 agent, of the vessel and the operator of the vessel.

34 (27) "Sewage pumpout or dump unit" means:

35 (a) A receiving chamber or tank designed to receive vessel sewage
36 from a "porta-potty" or a portable container; and

37 (b) A stationary or portable mechanical device on land, a dock,

1 pier, float, barge, vessel, or other location convenient to boaters,
2 designed to remove sewage waste from holding tanks on vessels.

3 (28) "Stern deck recreation" means any aquatic recreation that
4 involves holding onto or otherwise being in direct contact with the
5 stern of a motor driven boat or vessel, other than a personal
6 watercraft, while the vessel is being operated at any speed or when the
7 vessel's engine is at idle. The term includes holding onto the swim
8 deck, swim platform, swim ladder, or any other portion of the exterior
9 or transom of the vessel and floating or swimming on one's stomach or
10 back in the wake directly behind a vessel. The term does not include
11 being dragged or pulled behind a vessel on the end of a length of rope,
12 and does not include activities required for docking, departing,
13 exiting, or entering the vessel, or for activities occurring when the
14 vessel is engaged in law enforcement or emergency rescue activities.

15 (29) "Underway" means that a vessel is not at anchor, or made fast
16 to the shore, or aground.

17 ~~((+29+))~~ (30) "Vessel" includes every description of watercraft on
18 the water, other than a seaplane, used or capable of being used as a
19 means of transportation on the water. However, it does not include
20 inner tubes, air mattresses, sailboards, and small rafts or flotation
21 devices or toys customarily used by swimmers.

22 ~~((+30+))~~ (31) "Water skiing" means the physical act of being towed
23 behind a vessel on, but not limited to, any skis, aquaplane, kneeboard,
24 tube, or any other similar device.

25 ~~((+31+))~~ (32) "Waters of the state" means any waters within the
26 territorial limits of Washington state.

27 ~~((+32+))~~ (33) "Whitewater river outfitter" means any person who is
28 advertising to carry or carries passengers for hire on any whitewater
29 river of the state, but does not include any person whose only service
30 on a given trip is providing instruction in canoeing or kayaking
31 skills.

32 ~~((+33+))~~ (34) "Whitewater rivers of the state" means those rivers
33 and streams, or parts thereof, within the boundaries of the state as
34 listed in RCW 79A.60.470 or as designated by the commission under RCW
35 79A.60.495.

36 **Sec. 7.** RCW 79A.60.610 and 1994 c 151 s 2 are each amended to read
37 as follows:

1 The commission shall undertake a statewide recreational boating
2 fire prevention education program concerning the safe use of marine
3 fuels and electrical systems (~~and the hazards of carbon monoxide~~).
4 The boating fire prevention education program shall provide for the
5 distribution of fire safety materials and decals warning of fire
6 hazards and for educational opportunities to educate boaters on the
7 safety practices needed to operate heaters, stoves, and other
8 appliances in Washington's unique aquatic environment. The commission
9 shall evaluate the boating public's voluntary participation in the
10 program and the program's impact on safe boating.

11 NEW SECTION. **Sec. 8.** This act may be known and cited as the Jenda
12 Jones and Denise Colbert safe boating act.

13 NEW SECTION. **Sec. 9.** Sections 4 and 5 of this act take effect
14 January 1, 2007."

15 Correct the title.

EFFECT: Directs the Parks and Recreation Commission to include
information on carbon monoxide poisoning in its existing boater
education program, and to send an informational brochure with boater
registration mailings. Also requires every new and used motor boat
sold in the state to display a carbon monoxide warning sticker.
Provides that the act may be called the Jenda Jones and Denise Colbert
safe boating act.

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